

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

ELIXER THERAPEUTICS LLC, *a Wyoming
limited liability company,*

Plaintiff,

v.

TNR HOLDING GROUP, Inc.; PODS
HEALTH, Inc.; WAREHOUSE
HOLDINGS, Inc.; RICARDO BLANCO
FLORES; JOSE ARRAS; RAFAEL
MANO; DEEPAK PODDAR; JAMES
DAVIS; SEAN MCINERNEY,

Defendants.

Case No. 3:21-cv-01560-AR

ORDER OF DISMISSAL

SIMON, District Judge.

Plaintiff Elixer Therapeutics, LLC filed this action against several defendants on October 26, 2021. On March 14, 2022, Elixer obtained a stipulated partial judgment against Defendant James Elliot Davis II. (Partial Judgment, ECF No. 14.) On May 23, 2022, Elixer voluntarily dismissed Defendants TNR Holding Group, Inc., PODS Health, Inc., Ricardo Blanco Flores, Jose Arras, Rafael Manoso, and Deepak Poddar, without prejudice. (Order of Dismissal, ECF No. 19.) The partial judgment and dismissal left Defendants Warehouse Holdings, Inc. and Sean

McInerney remaining. In December 2022, after Magistrate Judge Jeff Armistead issued an Order to Show Cause why the case should not be dismissed for lack of prosecution, Elixer obtained Entry of Default against the two remaining Defendants.

In February 2023, Elixer filed a Motion for Default Judgment against Warehouse Holdings and McInerney. (Mot. Default, ECF No. 29.) On June 9, 2023, Judge Armistead issued a Findings and Recommendation in which he recommended that Elixer's Motion for Default Judgment against them be denied due to several deficiencies. (F&R, ECF No. 32.) On September 26, 2023, the Court adopted Judge Armistead's Findings and Recommendation. (Order, ECF No. 34.) On September 28, 2023, Judge Armistead notified Elixer that a new motion for default judgment correcting the identified deficiencies must be filed by October 18, 2023, and that failure to timely file such a motion could result in dismissal of Elixer's claims against Defendants Warehouse Holdings and McInerney. (Scheduling Order, ECF No. 35.) The Court's review of the docket reveals that Elixer has not taken any additional action since that time.

Because Elixer has failed to comply with this Court's order, this action is dismissed without prejudice against Defendants Warehouse Holdings, Inc. and Sean McInerney.

IT IS SO ORDERED.

DATED this 6th day of November, 2023.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge